



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 20, 1998

Mr. Richard M. Abernathy  
Abernathy, Roeder, Robertson, Boyd & Joplin, P.C.  
P.O. Box 1210  
McKinney, Texas 75069-1210

OR98-0996

Dear Mr. Abernathy:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 114641.

The Plano Independent School District (the "school district"), which you represent, received a request for evaluations of the job performance of Alice Wilson. You claim that the requested documents are excepted from disclosure under sections 552.101 and 552.102 of the Government Code. We have considered the exceptions you claim and have reviewed a representative sample of the documents at issue.<sup>1</sup>

Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. You claim that the requested documents are excepted from disclosure under section 552.101 in conjunction with section 21.355 of the Education Code. Section 21.355 provides, "[a]ny document evaluating the performance of a teacher or administrator is confidential." This office recently interpreted this section to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or administrator. Open Records Decision No. 643 (1996). In that opinion, this office also concluded that a teacher is someone who is required to hold and does hold a certificate or permit required under chapter 21 of the Education Code and is teaching at the time of his or her evaluation. *Id.* Similarly, an administrator is someone who is required to hold and does hold a certificate required under chapter 21 of the Education Code and is administering at the time of his or her evaluation. *Id.*

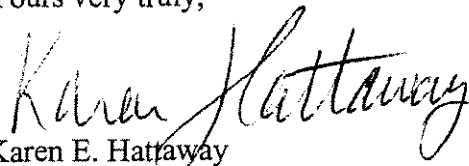
---

<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Based on the reasoning set out in Open Records Decision No. 643 (1996), we conclude that the documents submitted to this office are confidential under section 21.355 of the Education Code. Therefore, pursuant to section 552.101 of the Government Code, the school district must withhold these documents from disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, reading "Karen Hattaway". The signature is fluid and cursive, with the first name "Karen" and last name "Hattaway" clearly distinguishable.

Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 114641

Enclosures: Submitted documents

cc: Mr. John Schwalenberg  
1409 Thames Drive  
Plano, Texas 75075  
(w/o enclosures)